

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Brian Kirby,

Plaintiff,

vs.

Ryan Thornell, et al.,

Defendants.

No. CV-23-02619-PHX-SPL (MTM)

ORDER

Plaintiff Brian Kirby filed a Complaint pursuant to 42 U.S.C. § 1983 (Doc. 1). The Honorable Michael T. Morrissey, United States Magistrate Judge, issued a Report and Recommendation (“R&R”) (Doc. 67), recommending the Court dismiss Defendant Jane Doe pursuant to Federal Rule of Civil Procedure 41(b).

A district judge “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b); *see also* Fed. R. Civ. P. 72(b)(3) (“The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.”). When a party files a timely objection to an R&R, the district judge reviews *de novo* those portions of the R&R that have been “properly objected to.” Fed. R. Civ. P. 72(b)(3). A proper objection requires specific written objections to the findings and recommendations in the R&R. *See United States v. Reyna-Tapia*, 328 F.3d 1114, 1118–19 (9th Cir. 2003); 28 U.S.C. § 636(b)(1). It follows that the Court need not conduct any review of portions to which no specific objection has been made. *See Reyna-Tapia*, 328 F.3d at 1121; *see also*

1 *Thomas v. Arn*, 474 U.S. 140, 149 (1985) (discussing the inherent purpose of limited review
2 is judicial economy). Further, a party is not entitled as of right to *de novo* review of
3 evidence or arguments which are raised for the first time in an objection to the R&R, and
4 the Court’s decision to consider them is discretionary. *United States v. Howell*, 231 F.3d
5 615, 621–622 (9th Cir. 2000).

6 On November 27, 2024, the Court ordered Plaintiff to show cause why Defendant
7 Jane Doe should not be dismissed for failure to substitute her actual name (Doc. 65).
8 Plaintiff has not responded or otherwise taken any action. In the R&R, the Magistrate Judge
9 recommends Defendant Jane be dismissed pursuant to Rule 41(b) of the Federal Rules of
10 Civil Procedure for failure to comply with this Court’s Orders (Doc. 67 at 2).

11 The parties did not file objections, which relieves the Court of its obligation to
12 review the R&R. *See Reyna-Tapia*, 328 F.3d at 1121; *Thomas v. Arn*, 474 U.S. 140, 149
13 (1985) (“[Section 636(b)(1)] does not... require any review at all... of any issue that is not
14 the subject of an objection.”); Fed. R. Civ. P. 72(b)(3) (“The district judge must determine
15 *de novo* any part of the magistrate judge’s disposition that has been properly objected to.”).
16 The Court has nonetheless reviewed the R&R and finds that it is well-taken. The Court
17 will thus adopt the R&R in full. *See* 28 U.S.C. § 636(b)(1) (stating that the district court
18 “may accept, reject, or modify, in whole or in part, the findings or recommendations made
19 by the magistrate”); Fed. R. Civ. P. 72(b)(3) (“The district judge may accept, reject, or
20 modify the recommended disposition; receive further evidence; or return the matter to the
21 magistrate judge with instructions.”). Accordingly,

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